(3)

(1) Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 951 /2005

PETITIONER

Ram Charan Sonkar,
S/o. Shri Atmaram Sonkar,
Aged about 37 years,
Member, Krishi Upaj Mandi
Samiti, Raipur (C.G.),
R/o. Sonkarpara, Purani
Basti, Raipur (C.G.).

VERSUS

RESPONDENTS

1. State of Chhattisgarh,
Through the Secretary,
Department of Agriculture,
Mantralaya, D.K.S. Bhawan,
Raipur(C.G)

2. Managing Director,
Chhattisgarh Rajya Krishi
Vipanan (Mandi) Board,
Raipur (C.G)

3. Deputy Director,
Chhattisgarh Rajya Krishi
Vipanan (Mandi) Board,
Raipur (C.G)

4. Deputy Director,
Agriculture (Pariyojana
Karya Palan Adhikari),
Raipur(C.G)

5. Joint Collector/Secretary,
Krishi Upaj Mandi Samiti,
Raipur (C.G.)

6. Collector,
Raipur (C.G.)

P.R. No. 1117/05
Presented by Shri Sat Pal Sood, Adv
dated 15-03-05

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS.

(46)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.951 of 2005

Ram Charan Sonkar

- Versus -

State of Chhattisgarh and others

POST FOR ORDER ON 1st APRIL, 2005

Sd/-
L.C.Bhadoo
Judge

1/4/05

(47)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.951 of 2005

Ram Charan Sonkar

- Versus -

State of Chhattisgarh and others

Present: -

Mrs. Fouzia Mirza, Advocate: For the petitioner.

Mr. Sumesh Bajaj, Deputy Govt. Advocate: For the State/respondents No.1, 4 and 6.

Mr. Ranbir Singh Marhas, Advocate: For respondents No.2, 3 and 5.

Before: Hon'ble Mr. Justice L.C. Bhadoo

O R D E R

(Passed on 1st April, 2005)

1. By this writ petition under Article 226/227 of the Constitution of India, the petitioner who was elected as Member, Krishi Upaj Mandi Samiti, Raipur, in the elections conducted in the month of February, 2000, has questioned the legality and propriety of order dated 12-3-2005 issued by respondent No.2, whereby respondent No.2 in exercise of powers conferred upon him under Section 57 (1) (b) of the Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 (hereinafter referred to as 'the Adhiniyam'), appointed respondent No.4 as Officer-in-Charge of the Committee with effect from 15-3-2005 on ground of expiry of the term of the Krishi Upaj Mandi Samiti on 14-3-2005.

2. Brief facts leading to filing of this writ petition are that, as per the averments made in the writ petition, the petitioner was elected as Member of the Krishi Upaj Mandi Samiti, Raipur, in the elections held on 26-2-2000 and first meeting of the Committee was convened on 24-4-2000. As per the provisions of the Adhiniyam, the term of Office of the Committee was for a period of five years from the date of its first meeting and as such, the term of Office of the Committee would expire on 24-4-2005. Respondent No.2 has appointed respondent No.4 as Officer-in-Charge of the Committee with effect

from 15-3-2005 until further orders, which is not in conformity with the provisions of the Adhiniyam, and the impugned order is arbitrary, irrational and mala fide which is contrary to the provisions of the Adhiniyam.

3. Return has been filed on behalf of respondents No.2 & 3 in which it has been stated that first meeting of the Committee was convened by the Collector on 15-3-2000 as provided under Section 13 (1) of the Adhiniyam. Copy of proceedings of the first meeting is Annexure R-2-1. Therefore, the members had completed their term on 14-3-2005. In the circumstances, the impugned order is in conformity with the provisions of the Adhiniyam.

4. I have heard learned counsel for the parties.

5. Learned counsel for the petitioner argued that as per Annexure P-2 first meeting of the Committee was convened on 24-4-2000, therefore, the term of the Committee would expire on 24-4-2005.

6. On the other hand, learned counsel for the respondents argued that the first meeting was convened on 15-3-2000, therefore, the term had already expired on 14-3-2005.

7. In order to appreciate the arguments advanced by learned counsel for the parties it would be profitable to have a glance over the relevant provisions of the Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972. Section 13 (1) of the Adhiniyam envisages that

> "The first meeting of the Market Committee shall be convened by the Collector within one month from the date of publication of result of election of Chairman and members in the official gazette".

Sub-section (2) of Section 13 of the Adhiniyam provides that

> "The Chairman, Vice Chairman and members of the Market Committee shall hold office for a period of five years from the date of first meeting of the Market Committee:
>
> Provided that if on the expiry of the term of the Market Committee, a new Market Committee is not constituted the Market Committee shall be deemed to have been dissolved and in such an event the provisions of Section 57 shall apply."

Section 57 (1) of the Adhiniyam envisages that

> "Where a Market Committee stands dissolved under [proviso to sub-section (2) of Section 13], the following consequences shall ensue, namely:--
>
> (a) all the members as well as the Chairman and Vice-Chairman of the Market Committee shall, as from the date of dissolution of such Market Committee under the said sub-section, be deemed to have vacated their offices;
>
> (b) all powers and duties of the Market Committee under this Act, shall, subject to the control of the Managing Director, be exercised and performed by a person to be called the Officer-in-Charge as the Managing Director may, by order appoint in that behalf:"

8. Therefore, bare perusal of the above provisions make it abundantly clear that the term of five years shall commence from the date of first meeting of the Market Committee and on expiry of five years as per the provisions of Section 57 (1) (b) of the Adhiniyam, the Managing Director has to appoint an Officer-in-Charge to perform the duties of Market Committee subject to the control of the Managing Director. Now, the main question before this Court is in view of the above facts, as to when the five years' term of the Committee shall expire? Perusal of Annexure R-2-1 dated 15-3-2000 shows that the Collector & District Election Officer, Mandi Samiti, Raipur, vide his order dated 14-3-2000, convened the first meeting of newly elected members of the Krishi Upaj Mandi Samiti on 15-3-2000 for electing the Vice-Chairman of the Committee, between 11 a.m. and 12 Noon, the time was fixed for filing nomination and proceedings were to commence at 12.30 p.m. Therefore, it is evident from the above document Annexure R-2-1 that the first meeting was convened on 15-3-2000 under the orders dated 14-3-2000 in which election of Vice-Chairman was conducted and Smt. Rekha Baghel was elected as Vice-Chairman.

9. As far as the argument advanced by learned counsel for the petitioner that the first meeting was convened on 24-4-2000 is concerned, Annexure P-2 dated 19-4-2000 issued by the Joint Collector & Secretary, Mandi Samiti shows that the first meeting was convened on 24-4-2000 at 11 a.m. and the annexed Agenda was also circulated. By merely mentioning 'first meeting' meeting

dated 24-4-2000 cannot be termed as first meeting, as the first meeting of newly elected members of the Committee was already convened on 15-3-2000 and the Agenda was to elect Vice-Chairman. Therefore, there cannot be two first meetings. Once the first meeting was convened, then there is no question of again convening the first meeting, as such, in the above facts and circumstances, Annexure P-2 is of no help to the petitioner, and the first meeting was already convened on 15-3-2000. As per the provisions of sub-section (2) of Section 13 of the Adhiniyam, the term had already expired on 14-3-2000.

10. In the result, I do not find any substance in this writ petition, same is liable to be dismissed and it is accordingly, dismissed. No order as to costs.

Sd/-
L.C.Bhadoo
Judge

Soma